

# ***NEWS RELEASE***

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***OFFICE OF THE UNITED STATES ATTORNEY  
SOUTHERN DISTRICT OF CALIFORNIA  
San Diego, California***

***United States Attorney  
Carol C. Lam***

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***For Immediate Release***

**NEWS RELEASE SUMMARY - October 20, 2006**

United States Attorney Carol C. Lam announced that North County resident Brian Rubach was sentenced today in U.S. District Court in San Diego by the Honorable Barry Ted Moskowitz to serve five months in custody, followed by five months of home detention, and to pay a fine of \$3,000. His dietary supplement company, Vitashots, Inc., was sentenced to pay a \$69,500 fine for violating the Food, Drug and Cosmetic Act. Company president and owner Brian Rubach and Vitashots, Inc., had previously pled guilty to misbranding a dietary supplement which contained a powerful drug not listed in the ingredients on the label. During the period from approximately January 2003, through March 23, 2005, Rubach and Vitashots marketed a product called Ventilean, which was represented to reduce body fat. Ventilean was offered for sale at retail outlets throughout the United States and was distributed at trade shows for body builders.

Rubach admitted that beginning on or about June 2003, he added clenbuterol to batches of Ventilean sold by Vitashots, without disclosing the added clenbuterol on the labeling of the product. Clenbuterol is a drug which is only approved by the Food and Drug Administration for use in the United States to treat asthma in horses. Rubach acknowledged that by failing to disclose the presence of clenbuterol on the labeling, he intended to mislead consumers of Ventilean into believing that the effects they received from the product were the result of a simple dietary supplement, rather than a powerful drug.

### **DEFENDANTS**

Brian Rubach  
San Marcos, California

Criminal Case No. 06-CR-1272-BTM

Vitashots, Inc.  
San Marcos, California

### **SUMMARY OF CHARGES**

Misbranding, in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2)  
Maximum Penalty: Three years in custody and/or \$250,000 fine

### **AGENCY**

Food and Drug Administration, Office of Criminal Investigations